

DEPARTMENT OF COMMERCE

International Trade Administration

(A-201-830)

Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 12, 2008, the Department of Commerce (the Department) published in the Federal Register a notice of initiation of a changed circumstances review of the antidumping duty order of carbon and certain alloy steel wire rod (wire rod) from Mexico in order to determine whether Ternium Mexico, S.A. de C.V. (Ternium) is the successor-in-interest to Hylsa S.A. de C.V. (Hylsa) for purposes of determining antidumping duty liability. See Notice of Initiation of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico, (73 FR 66839) November 12, 2008 (Notice of Initiation).

We have preliminarily determined that Ternium is the successor-in-interest to Hylsa, for purposes of determining antidumping duty liability in this proceeding. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: (Insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, Office of AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S.

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Background

On October 29, 2002, the Department published in the Federal Register the antidumping duty order on wire rod from Mexico. See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine, 67 FR 65945 (October 29, 2002) (Wire Rod Order). On September 3, 2008, Ternium requested that the Department conduct a changed circumstances review of the antidumping duty order on wire rod from Mexico claiming that it is the successor-in-interest to Hylsa, in accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216. In its request, Ternium indicated that effective April 1, 2008, the production and sales operations of Hylsa were transferred to Ternium.¹ In response to this request the Department initiated a changed circumstances review of the antidumping duty order on wire rod from Mexico. See Notice of Initiation. On November 18, 2008, the Department issued a questionnaire to Ternium requesting additional information regarding its successor-in-interest changed circumstances review request. On December 10, 2008, Ternium submitted its response to the Department's questionnaire (Questionnaire Response). In our Notice of Initiation we invited interested parties to comment. We did not receive any comments.

¹ Prior to the reorganization effective April 1, 2008, Ternium was a holding company and did not have any production or sales operations.

Scope of the Order

The merchandise subject to this order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm. in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) concrete reinforcing bars and rods; and (f) free machining steel products (i.e., products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur,

(4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction

perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.

The designation of the products as “tire cord quality” or “tire bead quality” indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products subject to this order are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3092, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, 7227.90.6010, and 7227.90.6080 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Preliminary Results

In making a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. See, e.g., Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan, 67 FR 58 (Jan. 2, 2002); Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review, 57 FR 20460, 20462 (May 13, 1992). While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. See, e.g., Fresh and Chilled Atlantic Salmon from Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 64 FR 9979 (March 1, 1999); Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review, 59 FR 6944 (February 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

In accordance with 19 CFR 351.221(c)(3)(i), we preliminarily determine that Ternium is the successor-in-interest to Hylsa. In its September 3, 2008, and December 10, 2008, submissions Ternium provided evidence supporting its claim to be the successor-in-interest to Hylsa.² Documentation attached to Ternium's September 3, 2008, and December 10, 2008, submissions shows that the transfer of production and sales operations from Hylsa to Ternium resulted in little or no change in management, production facilities, supplier relationships, or

customer base. This documentation consists of: (1) a copy of documentation of merger of Hylsamex³ into Ternium; (2) diagram depicting the organizational structure of Hylsa and Ternium; (3) tables depicting the management structure of Hylsa as of November 30, 2007, and the current management structure of Ternium as of July 2008; (4) listings of Hylsa's suppliers of major inputs for production of subject merchandise in 2007 and of Ternium's suppliers of inputs for production of subject merchandise in the second quarter of 2008 (after the transfer took effect); (5) a list of Hylsa's and Ternium's facilities at which subject merchandise is produced; (6) listings of Hylsa's wire rod customers in the home and U.S. markets in 2007 and of Ternium's wire rod customers in the home and U.S. markets in the second quarter of 2008 (after the transfer took effect). The documentation described above demonstrates that there was little to no change in management structure, supplier relationships, production facilities, or customer base. For these reasons, we preliminarily find that Ternium is the successor-in-interest to Hylsa and, thus, should receive the same antidumping duty treatment with respect to steel wire rod from Mexico as Hylsa.

Public Comment

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing, if requested, will be held no later than 37 days after the date of publication of this notice, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal briefs, limited to the

² In our Notice of Initiation, we referred to Ternium's request as a name change, however, as explained above it is related to the transfer of production and sales functions from Hylsa to Ternium. Effective April 1, 2008, Hylsa exists solely as a service company which employs workers at the former Hylsa facilities and provides its services to Ternium on a contract basis.

³ Hylsamex is the former parent company of Hylsa. On February 12, 2008, Ternium merged with Hylsamex into Ternium Grupo IMSA SAB de C.V. (GISA).

issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303.

Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated.

During the course of this antidumping duty changed circumstances review, deposit requirements for the subject merchandise exported and manufactured by Ternium will continue to be the all others rate established in the investigation. See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine, 67 FR 65945, 65947 (October 29, 2002). The cash deposit rate will be altered, if warranted, pursuant only to the final results of this review.

We are issuing and publishing these preliminary results and notice in accordance with

sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

(Date)